

Questions for the Record for Ambassador Robert E. Lighthizer
U.S. House Ways and Means Committee
Hearing on U.S.-China Trade
February 27, 2019

From Representative Jackie Walorski to Ambassador Robert E. Lighthizer

1. I appreciate the resource constraints your agency faces with these exclusion processes for the China tariffs. The process for Lists 1 and 2 is tough to administer and moving slowly, and List 3 looms at four times their combined size. Is there a way to simplify things a little to take some of the load off your agency? For instance, what about companies who are hurt because their only competitors are foreign and are able to export the finished products to the US at little to no tariffs? Or what about a company that would take years to switch suppliers because the product is regulated by a governmental agency like the FDA?

Answer: USTR developed the exclusion processes for Lists 1 and 2 with extensive input from both Congress and other federal agencies. We regularly seek and obtain interagency views (including from FDA) regarding specific exclusion requests. We look forward to continue to work closely with the Committee on any future exclusion processes for List 3.

2. How many people do you have working on the 301 exclusions and what's their experience level in dealing with classification and global supply chains? And to what extent do your staff working on exclusions interact with the International Trade Commission?

Answer: Approximately 25 USTR attorneys, paralegals, and trade analysts with experiences in law, industrial sectors, and data analysis work on the exclusion process. This team works extensively with the ITC and other federal agencies with relevant expertise.

3. What kind of evaluation does USTR conduct to determine whether or not companies are able to source products outside of China?

Answer: USTR carefully considers each request under the product exclusion criteria set forth in the Federal Register notice. USTR takes into account all available information, including information submitted by the requester and by other interested parties that may comment on specific requests.

4. Are you contemplating instituting an appeals process for 301 exclusions?

Answer: USTR is not considering an appeals process at this time.

5. If the US and China agree to a deal while a significant backlog of exclusion requests exists, and if there were to be changes to the tariff rates (such as removal or reduction), will USTR continue with the exclusion processes? The funds at stake that might be recovered are critical for US businesses, particularly small- and medium-sized companies in communities around the country, including my district.

Answer: USTR will consider all options in the event tariff rates are modified, and will continue to consult with Congress on this and other matters arising under the Section 301 investigation.

6. In the report you sent to Congress identifying laws that would need to be changed to implement the USMCA, you included the statute that sets the US de minimis low value threshold. Are you asking Congress to decrease the US de minimis threshold across the board? What impact would increasing the US de minimis threshold have on American consumers?

Answer: As noted in the Administration's submission to Congress on changes to existing law required to bring the United States into compliance with the obligations of the USMCA, we will be consulting with the Committee on Ways and Means of the House and the Committee on Finance of the Senate before making a final determination on implementing the flexibility we negotiated with respect to reciprocity of treatment.

7. Ambassador Lighthizer, in 2018, the RV Industry Association submitted a competitive needs limitation waiver to the USTR for a specific type of hardwood plywood made from trees that only grow in Indonesia and a few other tropical locations—lauan and meranti. Unfortunately, what I believe to be a flawed ITC report determined that there was domestic production of a “like or directly competitive product.” Because of this, the American-made RV industry is paying an additional \$1 to 2 million dollars a month on these imports, as this plywood is now subject to an 8 percent duty. Will you promise to work with my office to correct this, and direct your staff to work with the RV industry and the ITC to fix this flawed outcome?

Answer: The U.S. International Trade Commission (ITC) is an independent federal agency. USTR, therefore, does not participate in its investigations regarding possible modifications to the list of products eligible for duty-free treatment under the Generalized System of Preferences (GSP). I encourage you to discuss any concerns you may have with the ITC's analysis on hardwood plywood directly with the ITC.

As you may be aware, USTR has just launched its 2019 GSP annual product review. Should we receive a petition from the RV Industry Association related to hardwood plywood, we will make note of your interest in this issue.